

## Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

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PLR-104000-20

Date:

July 24, 2020

TY:

Distributing =

Controlled =

Subsidiary =

Shareholder =  
1

Shareholder =  
2

Partnership =

State A =

State B =

Business A =

Business B =

C =

D =

Dear :

This letter responds to your representative's December 18, 2019 letter, requesting rulings under Section 355 and related provisions of the Internal Revenue Code of 1986, as amended, and related regulations with respect to the proposed transaction described below (the "Proposed Transaction").

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalties of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

This letter is issued pursuant to Rev. Proc. 2020-1, 2020-1 I.R.B. 1, and Rev. Proc. 2017-52, 2017-41 I.R.B. 283, regarding a Transactional Ruling for a Covered Transaction. This office expresses no opinion as to the overall tax consequences of the Proposed Transaction or as to any issue not specifically addressed by the rulings below.

This office has made no determination regarding whether the Distribution (as defined below): (i) satisfies the business purpose requirement of Treas. Reg. § 1.355-2(b); (ii) is used principally as a device for the distribution of the earnings and profits of the distributing corporation or the controlled corporation or both (see § 355(a)(1)(B) and Treas. Reg. § 1.355-2(d)); or (iii) is part of a plan (or series of related transactions) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest in the distributing corporation or the controlled corporation, or any predecessor or successor of the distributing corporation or the controlled corporation, within the meaning of Treas. Reg. § 1.355-8 (see § 355(e)(2)(A)(ii) and Treas. Reg. § 1.355-7).

### **Summary of Facts**

Shareholder 1 and Shareholder 2 own Distributing. Distributing is a State A corporation and the common parent of a group of affiliated corporations that join in filing a consolidated U.S. federal income tax return (the "Distributing Group"). Each member of the Distributing Group uses the accrual method of accounting. Distributing owns all the

issued and outstanding stock of Controlled, a State A corporation, and Subsidiary, a State B corporation. Controlled owns C percent of Partnership, a State A limited partnership, and Subsidiary owns D of Partnership. Unrelated third parties own the remaining interests in Partnership.

Distributing Group, excluding Controlled and Subsidiary, is engaged in Business A and Partnership is engaged in Business B. Financial information has been submitted with respect to Business A and Business B in accordance with Revenue Procedure 2017-52.

### **Proposed Transaction**

Distributing proposes the following transaction (the “Proposed Transaction”):

1. Subsidiary will merge with and into Controlled, with Controlled surviving.
2. Distributing will distribute all its Controlled Common Stock pro rata to Shareholder 1 and Shareholder 2 (the “Distribution”).

### **Representations**

Except with respect to representations 7, 24, 25, and 35 of section 3 of the appendix to Revenue Procedure 2017-52, which are inapplicable to the Proposed Transaction, Distributing makes all the representations in section 3 of the appendix to Revenue Procedure 2017-52. With respect to the representations that allow for alternative representations to be made and are not otherwise modified below, Distributing makes representations 3(a), 8(b), 11(a), 15(b), 22(a), 31(a), and 41(a).

### **Rulings**

Based solely on the information submitted and the representations set forth above, we rule as follows regarding the Proposed Transaction:

- 1) No gain or loss will be recognized by (and no amount will be included in the income of) Shareholder 1 or Shareholder 2 upon receipt of the Controlled Stock in the Distribution. Section 355(a)(1).
- 2) No gain or loss will be recognized by Distributing upon the Distribution. Section 355(c)(1).
- 3) The aggregate basis of the Distributing stock and the Controlled stock in the hands of Shareholder 1 and Shareholder 2 immediately after the Distribution will equal the aggregate basis of the Distributing stock held by such shareholder immediately before the Distribution allocated between the stock of Distributing and Controlled in proportion to the fair market value of each in accordance with Treas. Reg. § 1.358-2(a)(2). Sections 358(a)(1), (b), and (c).

- 4) The holding period of Controlled stock received by Shareholder 1 and Shareholder 2 in the Distribution will include the holding period of the Distributing stock held by each shareholder with respect to which the distribution will be made, provided that such Distributing stock is held as a capital asset on the date of the Distribution. Section 1223(1).
- 5) Earnings and profits of Distributing, if any, will be allocated between Distributing and Controlled in accordance with section 312(h), Treas. Reg. § 1.312-10(b), and Treas. Reg. § 1.1502-33(e)(3).
- 6) Immediately following the Distribution, Controlled will not be treated as a “successor” to Distributing or any of its affiliates for purposes of Section 1504(a)(3).

### **Caveats**

No opinion is expressed or implied about the tax treatment of the Proposed Transaction under any other provisions of the Code or regulations, or effects resulting from the Proposed Transaction that are not specifically covered by the above rulings.

### **Procedural Statements**

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

In accordance with the power of attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Richard K. Passales  
Senior Counsel  
(Corporate)

cc: